

Order

Michigan Supreme Court
Lansing, Michigan

September 10, 2007

Clifford W. Taylor,
Chief Justice

134348

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 134348
COA: 276405
Genesee CC: 06-018123-FH

AARON TODD BROWN,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the May 17, 2007 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for consideration, as on leave granted, of: (1) whether the defendant was properly assessed 5 points under Offense Variable 10, for “exploit[ing] a victim by his or her difference in size or strength[.]” MCL 777.40(1)(c), where no such physical differences were documented in the record, but the defendant is male and the victim is female, and (2) whether the defendant was properly assessed 15 points under Offense Variable 19 for the use of “force or the threat of force against another person . . . to interfere with, attempt to interfere with, or that results in the interference with the administration of justice[.]” MCL 777.49(b), where the defendant ran from and struggled with ordinary citizens, rather than law enforcement personnel. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.



p0830

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 10, 2007

Corbin R. Davis

Clerk